

FILED 15 AUG '11 12:24 USDC-ORE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBERT A. KOLWITZ and NANCY
KOLWITZ,

Plaintiffs,

v.

LINCOLN COUNTY OREGON,

Defendant.

Civ. No. 10-6002-TC

ORDER

Aiken, Chief Judge:

Plaintiffs filed suit under 42 U.S.C. § 1983 alleging false arrest, unreasonable seizure, and other federal constitutional violations as well as state law claims for defamation, false light, and interference with economic relationships. On April 21, 2011, Magistrate Judge Coffin issued his Findings and Recommendation, recommending that defendant's motion for summary judgment be granted as to all of plaintiffs' claims.

When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the magistrate judge's report. See 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). I previously adopted Magistrate Judge Coffin's Findings and Recommendation without *de novo* review of Magistrate Judge Coffin's findings. However, upon review of the record, plaintiffs filed objections to the Findings and Recommendation. Thus, I have considered plaintiffs' objections and given *de novo* review of Magistrate Judge Coffin's ruling. I find no error and affirm my prior ruling.

Contrary to plaintiffs' objections, the terms of plaintiffs' commercial lease are irrelevant to Magistrate Judge Coffin's ultimate and correct finding that plaintiffs fail to present facts to support a § 1983 claim against the defendant, in that plaintiffs fail to allege or show that an official policy, practice or custom of Lincoln County caused the deprivation of their constitutional rights. Monell v. New York Dep't of Soc. Servs., 436 U.S. 658, 690-91 (1978). Further, the undisputed facts show that any statements of a deputy regarding Mr. Kolwitz's arrest were made in the course of the deputy's official duties, and plaintiffs fail to show that any statements were false or asserted with malice.

Accordingly, I AFFIRM my previous order adopting Magistrate

Judge Coffin's Findings and Recommendation (doc. 35) in its entirety and granting defendant's Motion for Summary Judgment (doc. 20). IT IS SO ORDERED.

Dated this 11th day of August, 2011.

A handwritten signature in cursive script, appearing to read "Ann Aiken", is written over a horizontal line.

Ann Aiken
United States District Judge